



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 173-99

7 January 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 4 January 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 19 September 1977 at age 20. The record shows that on 14 November 1977 you received nonjudicial punishment for disobedience of an order to jump into the pool. On 10 December 1977 you were notified of separation processing by reason of misconduct due to fraudulently enlisted because you had concealed the existence of a dependent child.

In his recommendation for discharge the commanding officer stated, in part, as follows:

His performance in training thus far has been unsatisfactory. He has been a continual source of problems for the drill instructors. Undisciplined, untrustworthy, and belligerent, (he) has not responded in a positive manner to counseling from his superiors

....

On 20 December 1977 the discharge authority approved the recommendation of the commanding officer that you be issued a general discharge. You were so discharged on 22 December 1977.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and the contention that you were told the discharge would automatically be upgraded to honorable after six months. The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge given your poor performance, disciplinary action and especially your fraudulent entry into the Marine Corps. The Board was aware that there is no provision in the law or regulations which would allow for recharacterization of a discharge based solely on the passage of a period of time. The Board concluded that the discharge was proper as issued and no change is warranted.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director